

REMARKS

Applicants respectfully request entry of the amendments and remarks submitted herein. The amendments herein place the claims in condition for allowance. In the Office Action mailed July 23, 2004, the Examiner indicated that claims 73-78, 116-119, and 131-134 were allowed, and that claims 71, 72, 80, and 121 were objected to but would be allowable if rewritten in independent form. Without acquiescing to the Examiner's rejection, Applicants have canceled claims 54-136, and rewritten the allowable and objected claims as new claims 137-241. The claim chart below indicates the correspondence between each new claim and the previously presented claim, as well as the previous status of each claim being rewritten herein. Reconsideration of the pending application and allowance of claims 137-241 are respectfully requested.

Claim chart showing correspondence between newly filed claims  
and previously presented claims

New claim(s):	Corresponds to previously filed claim(s):	Status of previously filed claim(s):
137	71 (via 70, 54)	Allowed
141	71 (via 70, 56)	Allowed
145	71 (via 70, 58)	Allowed
149	71 (via 70, 60)	Allowed
153	71 (via 70, 62)	Allowed
157	71 (via 70, 64)	Allowed
161	72 (via 70, 54)	Allowed
165	72 (via 70, 56)	Allowed
169	72 (via 70, 58)	Allowed
173	72 (via 70, 60)	Allowed
177	72 (via 70, 62)	Allowed
181	72 (via 70, 64)	Allowed
138-140, 142-144, 146-148, 150-152, 154-156, 158-160, 162-164, 166-168, 170-172, 174-176, 178-180, 182-184	55, 57, 59, 61, 63, 65	Rejected when depending from rejected claim
185-188	66-69	Rejected when depending from rejected claim
189	73	Allowed
192	75	Allowed

195	77	Allowed
198	80	Allowed
190, 191, 193, 194, 196, 197, 199	55, 57, 59, 61, 63, 65; 74, 76, 78	Rejected when depending from rejected claim; Allowed
200-223	81-105	Rejected when depending from rejected claim
224	116	Allowed
227	118	Allowed
230	121	Allowed
225, 226, 228, 229	117, 119	Allowed
231-235	122-126	Rejected when depending from rejected claim
236	131	Allowed
238	133	Allowed
237, 239	132, 134	Allowed
240, 241	135-136	Rejected when depending from rejected claim

#### The 35 U.S.C. §102 Rejections

Claims 54-70 stand rejected under 35 U.S.C. §102(a) as being anticipated by Espy et al. (*J. Clin. Micro.*, 2000). Without acquiescing to the Examiner's rejection, claims 54-70 have been canceled without prejudice to continued prosecution. Therefore, Applicants respectfully submit that the rejection of claims 54-70 under 35 U.S.C. §102(a) is moot.

#### The 35 U.S.C. §103 Rejections

Claims 79 and 81-105 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Greenberg et al. (U.S. Patent No. 5,846,706) in view of Wittwer et al. (U.S. Patent No. 6,140,054), and further in view of Heller (U.S. Patent No. 4,824,776). Without acquiescing to the Examiner's rejection, claims 79 and 81-105 have been canceled without prejudice to continued prosecution. Therefore, Applicants respectfully submit that the rejection of claims 79 and 81-105 under 35 U.S.C. §103(a) is moot.

Claims 106-109 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Greenberg et al. ('706) in view of Wittwer et al. ('054), and further in view of Espy et al.

Without acquiescing to the Examiner's rejection, claims 106-109 have been canceled without prejudice to continued prosecution. Therefore, Applicants respectfully submit that the rejection of claims 106-109 under 35 U.S.C. §103(a) is moot.

Claims 120 and 122-126 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Greenberg et al. ('706) in view of Livak et al. (*Genome Res.*, 1995), and further in view of Heller ('776). Without acquiescing to the Examiner's rejection, claims 120 and 122-126 have been canceled without prejudice to continued prosecution. Therefore, Applicants respectfully submit that the rejection of claims 120 and 122-126 under 35 U.S.C. §103(a) is moot.

Claims 110-115 and 122-126 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Greenberg et al. ('706) in view of Livak et al., and further in view of Espy et al. Without acquiescing to the Examiner's rejection, claims 110-115 and 122-126 have been canceled without prejudice to continued prosecution. Therefore, Applicants respectfully submit that the rejection of claims 110-115 and 122-126 under 35 U.S.C. §103(a) is moot.

Claims 127-130, 135, and 136 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Greenberg et al. ('706) in view of Higuchi et al., and further in view of Espy et al. Without acquiescing to the Examiner's rejection, claims 54-70 have been canceled without prejudice to continued prosecution. Therefore, Applicants respectfully submit that the rejection of claims 127-130, 135, and 136 under 35 U.S.C. §103(a) is moot.

Applicant : Thomas F. Smith et al.  
Serial No. : 10/066,432  
Filed : January 31, 2002  
Page : 35 of 35

Attorney's Docket No.: 07039-246001

CONCLUSION

Applicants respectfully request that claims 137-241 be allowed. Please apply any charges or credits to Deposit Account 06-1050.

Respectfully submitted,

Date:

September 23, 2004

M. Angela Parsons

M. Angela Parsons, Ph.D.  
Reg. No. 44,282

Fish & Richardson P.C., P.A.  
60 South Sixth Street, Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696